

STATE OF MAINE
Board of Overseers of The Bar
Grievance Commission
File No. 90-K-68

BOARD OF OVERSEERS OF THE BAR *
*
Petitioner *
*
V. *
*
JOHN S. JENNESS, JR. *
*
Respondent *

REPORT OF PROCEEDINGS,
FINDINGS, CONCLUSIONS
AND DISPOSITION

This matter came on for hearing on the petition of the Board of Overseers of the Bar on May 9, 1991 at the offices of the Board of Overseers in Augusta, Maine. The hearing was open to the public for the purpose of determining if the evidence supported the imposition of a reprimand of Respondent, or if probable cause existed for the filing of an information before the Court.

Proper notice having been given, the hearing was conducted before Panel C of the Grievance Commission comprised of David B. Soule, Jr., Chairman, Marc V. Schnur, and Jon S. Oxman, Esq. No objections were raised as to the composition of the panel. The Board was represented by Assistant Bar Counsel, Karen G. Kingsley, Esq. The respondent was present in person and represented himself.

John S. Jenness, Jr., Patrick McInnis, Andrew J. Ciafardoni, John Russell, Barbara Farrar and Darylene S. Wallace appeared as witnesses and were duly sworn. Preliminarily, Board exhibits 1,2,3,4,5,6 and 7 were admitted by stipulation. In addition, Board Exhibits 11,18,24,15,13,19, and 10 were admitted. Respondent's Exhibits 1, 3,5,6,4, and 2 were admitted.

FINDINGS OF FACT

1. John S. Jenness, Jr. was at all times relevant hereto an attorney, duly admitted to and engaging in the practice of law in the State of Maine with an office in South Paris, Maine.

2. Prior to 1984, Respondent had represented Barbara McInnis and Patrick W. McInnis both individually and together on a myriad of matters ranging from OUI defense to real estate and landlord tenant matters.

3. On March 27, 1984, Respondent agreed to represent and did represent Barbara McInnis in an action for divorce filed against Patrick McInnis. The divorce became final on June 15, 1984. During the divorce, Patrick was represented by separate counsel.

4. With regard to the purchase of certain real estate in the Town of Paris, indentified in the hearing as "Lot 3", Respondent represented Patrick McInnis from February 22, 1984 through closing on April 2, 1984. During the pendency of the divorce, Respondent counseled Patrick concerning some disability insurance problems.

5. Patrick McInnis objected to Respondent's representation of his wife in the divorce action. We find no evidence of any informed written consent by Patrick McInnis.

6. Beginning in 1984, Respondent represented Patrick McInnis in the division of "Lot 3.", including drafting deeds of sale to a John Russell and Andrew Ciarfardoni. Subsequently, Respondent represented Ciarfardoni in an attempt to gain a building permit and in a Rule 80B action regarding the failure to obtain a permit for the lot purchased from McInnis. Respondent also represented McInnis in a quest for a building permit on one of the subdivided lots.

7. While representing Ciarfardoni, Respondent met with McInnis concerning a dispute which had arisen between McInnis and Ciarfardoni concerning the maintenance of the subdivision road. On January 11, 1990, Respondent wrote a letter to Ciarfardoni, inter alia, telling him that McInnis had no responsibility to maintain the road. At no time did respondent obtain the written consent of Ciarfardoni.

CONCLUSIONS

Upon a review of the entire record including the pleadings, the exhibits and the testimony the panel concludes that Respondent violated the following Maine Bar Rules:

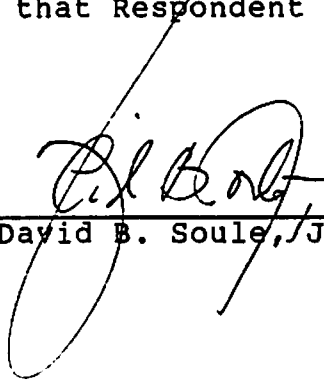
a) By representing Barbara McInnis in a divorce action against his former client, Patrick McInnis, without getting the consent of Patrick and at the same time representing Patrick McInnis, Respondent has violated Maine Bar Rule 3.4 (b), (d), and (e). The employment accepted by Respondent in this regard clearly involved him in representing differing interests. His employment by Barbara placed him in a position where his intimate knowledge of each party's financial and personal life gathered through prior representation of Patrick may have involved the use of confidential information obtained by that prior representation.

b) Respondent violated Rule 3.4 (c) and (d) in that his representation of Patrick McInnis and Andrew Ciafardoni regarding the issues surrounding the subdivision placed him in a position of representing differing interests. In fact, when the issue of the road maintenance arose, Respondent was placed in the position of advising one client to the detriment of the other.

DISPOSITION

Based upon the evidence and the record before it and the findings of fact, Panel C determines that the appropriate disposition of this petition is that Respondent should be and is hereby reprimanded.

Dated: June 5, 1991



David B. Soule, Jr. Chairman